

TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD

vs.

JAMES MONROE DAVIS
TX-1322767-R

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DOCKETED COMPLAINT NO.
06-086

AGREED FINAL ORDER

On this the 20th day of October, 2006, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of James Monroe Davis, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

FINDINGS OF FACT

1. Respondent James Monroe Davis is a Texas state certified residential real estate appraiser, holds certification number TX-1322767-R, and has been certified by the Board since March 25th, 1992.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (Vernon 2005) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2005) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about August 12th, 2003, the Respondent was engaged by Robert E. Huebel, Jr. to appraise property located at or near the Southeast corner of Cavender and Camack in Sierra Blanca, Texas 79851 ("the property").
4. On or about February 21st, 2006, the Complainant, Robert E. Huebel, Jr. of Golden Colorado, complained to the Board alleging that the Respondent had failed to produce an appraisal report for the property in accordance with his agreement with Respondent.
5. On or about February 28th, 2006, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. A second notice was sent to Respondent on March 29th, 2006 and a third notice was sent on April 6th, 2006. No response to these missives was received by Petitioner. Ultimately, after further extensive efforts and repeated communications by the Board, Respondent's response was finally received.
6. On October 5th, 2006, Respondent appeared at an Informal Conference in response to an invitation from the Enforcement Division. The Enforcement Division was represented at

the Informal Conference by Deloris Kraft-Longoria, Investigator for the Board; Jack McComb, Investigator for the Board; Jeff Strawmyer, Investigator for the Board; and Troy Beaulieu, Attorney for the Board. Respondent was advised of his right to retain legal counsel, but chose to appear without an attorney.

7. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report:

- a. USPAP Standard 1-4(e) – Respondent erroneously valued the whole property solely by adding together the individual values of the various lots.
- b. USPAP Standard 2-2(b)(ix) – By erroneously valuing the whole property by aggregating the individual values of the various lots Respondent did not provide information sufficient for the client and intended users to adequately understand the rationale for his opinions and conclusions.

8. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.22 and 153.20(a)(2) by failing to respond and provide requested documentation to the Board within 20 days of notice of the Board's request for such material despite repeated requests for this documentation.

9. The Enforcement Division has concluded that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(5) and 153.20(a)(6). Robert E. Huebel, Jr. made partial payment to Respondent for his appraisal services in accordance with their contract, but Respondent failed to deliver the agreed upon appraisal services in the agreed upon manner, nor did Respondent refund the money Robert E. Huebel, Jr. paid to him. Despite never having delivering the appraisal services to Robert E. Huebel, Jr., the Respondent cashed the check tendered by Robert E. Huebel, Jr. and never refunded any of the money paid by Robert E. Huebel, Jr.

CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et. seq. (Vernon 2005).
2. Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 1-4(e) and 2-2(b)(ix).
3. Respondent violated 22 TEX. ADMIN. CODE §§ 153.22 and 153.20(a)(2).
4. Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(5) and 153.20(a)(6).

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent:

- a. Pay to the Board an Administrative Penalty of \$1,000.00;
- b. Attend and complete a minimum, 15 classroom-hour course in USPAP;
- c. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

Payment of the **ADMINISTRATIVE PENALTY** must be by certified funds, and must be completed within **TWENTY DAYS** of the date of this Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in **IMMEDIATE SUSPENSION** of Respondent's license pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

ALL CLASSES required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Failure to complete the education required by this Agreed Final Order within the time allotted shall result in **IMMEDIATE SUSPENSION** of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational requirements of this Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.

Respondent, by signing this Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Agreed Order to avoid the expense of litigation and to reach an

expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Agreed Final Order in a timely manner.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

THE DATE OF THIS CONSENT ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Consent Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 12 day of OCTOBER, 2006.

James Monroe Davis
JAMES MONROE DAVIS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 16 day of October, 2006, by JAMES MONROE DAVIS, to certify which, witness my hand and official seal.

Mercedes Flores
Notary Public Signature



Mercedes Flores
Notary Public's Printed Name

Signed by the Commissioner this 19th day of October, 2006.

Wayne Thorburn
Wayne Thorburn, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 20th day of October, 2006.

Shirley Ward
Shirley Ward, Chairperson
Texas Appraiser Licensing and Certification Board